

Voting Conference, May 3, 2005

Statement of Marc Lerner  
Branch Chief, STB Office of Proceedings

New England Transrail, LLC, d/b/a  
Wilmington and Woburn Terminal Railroad Co.  
– Construction, Acquisition, and Operation Exemption –  
In Wilmington and Woburn, MA

STB Finance Docket No. 34391

Good morning Chairman Nober, Vice Chairman Buttrey, and Commissioner Mulvey.

New England Transrail, LLC, filed a petition for exemption to construct approximately 2,700 feet of new rail line in Wilmington and Woburn, MA, to acquire approximately 1,300 feet of track already located there, and to begin common carrier service over all 4,000 feet of track following completion of construction. Transrail states that it intends to function as a truck-to-rail transload facility handling various commodities. On March 2, 2004, the Board granted Transrail a conditional exemption finding that the proposed construction met the standards of 49 U.S.C. 10502, but noting that the finding was subject to the completion of the Board's assessment of the project's environmental impacts.

Transrail provided detailed information about its project to the Section of Environmental Analysis, which issued an Environmental Assessment and, following public comments, a Post Environmental Assessment.

After the Post-EA was issued, a number of parties submitted filings requesting additional Board review of this project. Based upon a review of those filings, as well as submissions made by Transrail to the Commonwealth of Massachusetts, it became apparent that Transrail's project is materially different than the one that it had presented to SEA during the environmental review process. This raises a significant concern that the Board could not adequately fulfill its obligations under the National Environmental Policy Act were it to issue a final decision on Transrail's petition on the basis of the description of the project in the EA and Post-EA.

The draft decision before you would dismiss Transrail's petition. The decision points out that the Board is obligated to progress its cases in a timely fashion, and that, as here, when a petition has been modified to the point where the environmental analysis already performed by the Board becomes substantially deficient and would require extensive revision, it is appropriate to terminate the proceeding. The draft decision would permit Transrail to seek approval of the project it now evidently proposes to undertake by filing a new petition or an application.

We would be happy to address any questions you might have.